

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT

U.S. DISTRICT COURT
DISTRICT OF VERMONT
FILED

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JUSTIN RUSSELL,)
Petitioner,)
v.) Case No. 5:15-cv-126
ANDREW PALLITO, CYNTHIA MASON,)
RICHARD BILODEAU, and LISA)
MENARD)
Respondents.)

**ENTRY ORDER ADOPTING MAGISTRATE JUDGE'S
REPORT AND RECOMMENDATION
(Docs. 121, 123, 128, 140, 141, 150)**

Plaintiff Justin Russell, an inmate of the Vermont Department of Corrections ("DOC"), brought this civil-rights lawsuit against four officials and employees of the DOC: Andrew Pallito, the former Commissioner; Lisa Menard, the current Commissioner; Cynthia Mason, a Correctional Officer; and Richard Bilodeau, a Correctional Facility Shift Supervisor. Russell alleges that Pallito violated his rights under the Free Exercise Clause of the First Amendment when he instituted a policy that Muslim prisoners would be provided with kosher meals rather than halal meals. Russell alleges that Menard has continued this policy during her time as Commissioner.

Currently ripe for decision are the following motions: Russell's Motion for Partial Summary Judgment (Doc. 121); Pallito and Menard's Motion for Summary Judgment (Doc. 123); Mason and Bilodeau's Motion for Summary Judgment (Doc. 128), Russell's Motion for Reconsideration of this court's March 23, 2017 Opinion and Order (Doc. 140); and Russell's Renewed Motion to Certify Class Action and Motion to Reopen Discovery (Doc. 141). On

January 7, 2019, the United States Magistrate Judge issued his Report and Recommendation on these motions. (Doc. 150.) The magistrate judge recommended granting Mason and Bilodeau’s Motion for Summary Judgment (Doc. 128) and Russell’s Motion for Reconsideration of this court’s March 23, 2017 Opinion and Order (Doc. 140). (Doc. 150 at 2–3). He recommended denying the rest of the pending motions. (*Id.*)

Russell’s objections were filed on January 19, 2019. (Doc. 151.) Russell challenges the magistrate judge’s recommendation to deny class certification and additional discovery, deny Russell’s Motion for Partial Summary Judgment on his free exercise claim against Pallito, and grant Mason’s Motion for Summary Judgment. (*Id.* at 1.)

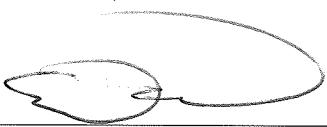
Pallito and Menard’s objections were filed on March 6, 2019. (Doc. 159.) Pallito and Menard challenge the magistrate judge’s recommendation to deny their Motion for Summary Judgment. (*Id.* at 1.)

A district judge must make a *de novo* determination of those portions of a magistrate judge’s report and recommendation to which an objection is made. Fed. R. Civ. P. 72(b)(3); 28 U.S.C. § 636(b)(1); *U.S. ex rel. Anti-Discrimination Ctr. of Metro New York, Inc. v. Westchester Cty., N.Y.*, 712 F.3d 761, 768 (2d Cir. 2013). The district judge may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1); *see also* Fed. R. Civ. P. 72(b)(3).

After careful review of the record, the magistrate judge’s thorough Report and Recommendation, and the objections, this court ADOPTS the magistrate judge’s recommendations in full for the reasons stated in the Report (Doc. 150). The magistrate judge carefully considered each claim and his recommendations are supported by case law and undisturbed by the parties’ objections. Accordingly, Russell’s Motion for Partial Summary

Judgment (Doc. 121) is DENIED. Menard and Pallito's Motion for Summary Judgment (Doc. 123) is DENIED. Mason and Bilodeau's Motion for Summary Judgment (Doc. 128) is GRANTED. Russell's Motion for Reconsideration (Doc. 140) is GRANTED. Russell's Renewed Motion to Certify Class and Motion to Reopen Discovery (Doc. 141) is DENIED.

Dated at Rutland, in the District of Vermont, this 15th day of May, 2019.



Geoffrey W. Crawford, Chief Judge
United States District Court